

DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

JOE FOSS BUILDING 523 E. CAPITOL AVE PIERRE SD 57501-3182 danr.sd.gov

March 15, 2023

NOTICE OF ENTRY OF ORDER

TO:

Ann Mines Bailey, Assistant Attorney General (Counsel for Chief Engineer) 1320 East Highway 14, Suite 1

Pierre SD 57501-8501

ann.minesbailey@state.sd.us

Matthew E. Naasz, Legal Counsel for

Tomas and Eraclio Martinez

P.O. Box 8045

Rapid City SD 57709

mnaasz@gpna.com

South Hills Law PLLC 429 1/2 Mt. Rushmore Rd

Custer SD 57730

southernhillslaw@gmail.com

J. Scott James, Legal Counsel for Applicant Susan Anderson (Limited Appearance) Elk Mountain Water Users Assn. Inc.

> PO Box 6062 Custer SD 57730

sanderson@custercountysd.com

Robert J. Galbraith, Legal Counsel for

Daniel and Dalton Stearns

Nooney & Solay, LLP

PO Box 8030

Rapid City SD 57709-8030 robert@nooneysolay.com

Petitioners

(see attached list dated March 7, 2023)

FROM:

Ron Duvall, Water Rights Permitting Administrator

SD DANR, Water Rights Program

SUBJECT:

Order Setting aside Pre-hearing Chair Order to Dismiss Late-Filed Petition regarding Water

Permit Application No. 2850-2, Elk Mountain Water Users Association Inc. and requiring

compliance with Procedural Order and Disclosure deadlines

Enclosed is an Order by the Water Management Board setting aside the Pre-hearing Chair Order dismissing a late-filed petition by Tomas and Eraclio Martinez regarding Water Permit Application No. 2850-2, Elk Mountain Water Users Association Inc. The Order also requires compliance with the previously issued procedural order and sets disclosure deadlines for Tomas and Eraclio Martinez.

Questions regarding this matter may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

Enclosure

c: David McVey, Assistant Attorney General (Legal Counsel for Water Management Board) david.mcvey@state.sd.us

Petitioner List

Water Permit Application No. 2850-2, Elk Mountain Water Users Association Inc.
March 7, 2023

PETITIONERS

Daniel Norman Stearns 25499 Dewey Rd Edgemont SD 57735 jdstearns@yahoo.com

Dalton Stearns 10321Two Track Trl Edgemont SD 57735 bardoubled@gmail.com

Travis Paulton 10693 Pass Creek Rd Edgemont SD 57735 tpaulton1983@gmail.com William and Susan Paulton 10666 Pass Creek Rd Edgemont SD 57735 paultonenterprises@gmail.com

Jim and Charel Pitts 25385 Gillette Canyon Rd Newcastle WY 82701 limestoneservicesllc@outlook.com

Tomas & Eraclio Martinez 25663 Dewey Rd Edgemont SD 57735 mistymartinez2@yahoo.com

STATE OF SOUTH DAKOTA DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER APPLICATION NO. 2850-2, Elk Mountain Water Users Association, Inc.)	ORDER
nic.)	

The Water Management Board met on Wednesday, March 8, 2023, and heard the appeal in the above-entitled matter from petitioners Tomas and Eraclio Martinez regarding the Prehearing Chair's Order dismissing them from the matter due to the untimeliness of their petition to intervene. Upon hearing arguments from the parties, it is hereby

ORDERED that the order of the Prehearing Chair is set aside. Petitioners

Tomas and Eraclio Martinez will be allowed to participate in the above-entitled

contested case proceedings.

IT IS FURTHER ORDERED that Petitioners Tomas and Eraclio Martinez shall comply with the provisions of the Procedural Order. Additionally, Petitioners Tomas and Eraclio Martinez shall disclose any expert witness no later than April 10, 2023, and shall disclose their witness list and exhibits no later than April 21, 2023, in accordance with the Procedural Order.

Dated this <u>5th</u> day of March, 2023.

William Larson, Chair Water Management Board

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Entry of Order dated March 15, 2023, regarding an Order by the Water Management Board setting aside an Order by the Pre-hearing Chair dismissing a late-filed petition concerning Water Permit Application No. 2850-2 – Elk Mountain Water Users Association Inc., requiring compliance the procedural order, and setting disclosure deadlines and a copy of the issued Order signed March 8, 2023, were served upon the following by enclosing the same in an envelope with first class postage prepaid and affixed thereto, and depositing said envelope in the United States mail on March 15, 2023.

Matthew E. Naasz P.O. Box 8045 Rapid City SD 57709 mnaasz@gpna.com

J. Scott James South Hills Law PLLC 429 1/2 Mt. Rushmore Rd Custer SD 57730 southernhillslaw@gmail.com Susan Anderson Elk Mountain Water Users Assn. Inc. PO Box 6062 Custer SD 57730 sanderson@custercountysd.com

Robert J. Galbraith Nooney & Solay, LLP PO Box 8030 Rapid City SD 57709-8030 robert@nooneysolay.com

Petitioners as follows:

Daniel Norman Stearns 25499 Dewey Rd Edgemont SD 57735 jdstearns@yahoo.com

Dalton Stearns 10321Two Track Trl Edgemont SD 57735 bardoubled@gmail.com Travis Paulton 10693 Pass Creek Rd Edgemont SD 57735 tpaulton1983@gmail.com

William and Susan Paulton 10666 Pass Creek Rd Edgemont SD 57735 paultonenterprises@gmail.com Jim and Charel Pitts 25385 Gillette Canyon Rd Newcastle WY 82701 limestoneservicesllc@outlook.com

Tomas & Eraclio Martinez 25663 Dewey Rd Edgemont SD 57735 mistymartinez2@yahoo.com

Above also Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General 1302 East Highway 14, Suite 1 Pierre SD 57501-8501 ann.minesbailey@state.sd.us

David McVey, Assistant Attorney General 1302 East Highway 14, Suite 1 Pierre SD 57501-8501 david.mcvey@state.sd.us

Vickie Maberry

Water Rights Program, DANR

STATE OF SOUTH DAKOTA

COUNTY OF HUGHES

Sworn to, before me, this 15th day of March, 2023.

SS

Karin Diplaak Karen Schlaak Notary Public

My Commission expires April 1, 2025

